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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,029	09/24/2003	Takayuki Suzuki	17053	4550
23389 7590 12/31/2009 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
EXAMINER NGUYEN, TUAN VAN				
ART UNIT		PAPER NUMBER		
3731				
MAIL DATE		DELIVERY MODE		
12/31/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/670,029

Applicant(s)

SUZUKI, TAKAYUKI

Examiner

TUAN V. NGUYEN

Art Unit

3731

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 10 September 2009. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 6, 7, 10, 16 and 18-24.
Claim(s) withdrawn from consideration: 2-5, 8, 9 and 11-15.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

//(Jackie) Tan-Uyen T. Ho/
Supervisory Patent Examiner, Art Unit 3773

/TUAN V NGUYEN/
Examiner, Art Unit 3731

Continuation of 3. NOTE: The limitation of "longitudinal central axis of the tubular sheath" in claim 1 has been amended to read "longitudinal central axis of the circular-section portion". The amendment introduces new issue because the limitations of "the longitudinal axis of the tubular sheath" in lines 9-10 and 13 required antecedent basis.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Examiner did not reject claim 17 in the Office action and Applicant amended claim 1 to include the features of claim 17, in this regard, Applicant believed that the rejection of claim 18 at paragraphs 12 and 13 of the Office action may have been intended to be a rejection of claim 17 is incorrect. Claim 1, which included the limitation of claim 17, is rejected in paragraphs 7, 8, 9, and 10 in the Office action mailed out on 6/10/09. The limitations of claim 17 have been addressed in paragraph 10 of the Office action mailed out on 6/10/09. Claim 18 is rejected in paragraph 12 and 13 in the Office action mailed out on 6/10/09. Applicant argues that the rejection of claims 21 and 22 under 35 U.S.C. section 103(a) is defective since the claims depending from claim 1, however, Examiner cites only Suzuki is incorrect. Claims 21 and 22 are rejected as unpatentable over Suzuki in view of Lucey further in view of Townsend et al. (US 6066102)(see paragraphs 14 and 15 of Office action mailed out on 6/10/09. Similarly, Applicant argues that "the rejection of claim cites both Suzuki and Lucey, while the rejection of claim 19, depending from claim 1, cites only Suzuki" is incorrect. Claim 19 is rejected as unpatentable over Suzuki in view of Lucey further in view of Suzuki (US 6110,17)(see Office action mailed out on 6/10/09, paragraphs 16 and 17). .